

House File 653

H-1088

1 Amend House File 653 as follows:

2 1. By striking everything after the enacting clause and
3 inserting:

4 <Section 1. Section 12.8, subsection 1, Code 2023, is
5 amended to read as follows:

6 1. The treasurer of state shall invest or deposit, subject
7 to chapters 12F, 12H, and 12J, and 12K and as provided by law,
8 any of the public funds not currently needed for operating
9 expenses and shall do so upon receipt of monthly notice from
10 the director of the department of administrative services of
11 the amount not so needed. In the event of loss on redemption
12 or sale of securities invested as prescribed by law, and if
13 the transaction is reported to the executive council, neither
14 the treasurer nor director of the department of administrative
15 services is personally liable but the loss shall be charged
16 against the funds which would have received the profits or
17 interest of the investment and there is appropriated from the
18 funds the amount so required.

19 Sec. 2. NEW SECTION. 12K.1 Legislative findings and intent.

20 The general assembly is deeply concerned over the increased
21 prevalence of investing based on social and environmental
22 factors, known as environmental, social, and governance
23 investing, rather than pecuniary factors. Therefore, the
24 general assembly intends to ensure that state funds and funds
25 administered by the state, including public employee retirement
26 funds, are protected from political influence detrimental to
27 the financial health of the state and its citizens and promote
28 the general assembly's goal of protecting free enterprise.

29 Sec. 3. NEW SECTION. 12K.2 Definitions.

30 As used in this chapter, unless the context otherwise
31 requires:

32 1. "*Boycott of certain companies*" means, except as otherwise
33 provided in chapters 12F, 12H, and 12J or without a reasonable
34 business purpose, refusal to invest in a company, termination
35 of business activities with a company, or another action that

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1 is intended to penalize, inflict economic harm on, or limit
2 commercial relations with a company because the company does
3 any of the following:

4 *a.* Engages in, or does business with a company that engages
5 in, the exploration, production, utilization, transportation,
6 or sale of fossil fuel-based energy, timber, mining, or
7 production agriculture.

8 *b.* Engages in, or does business with a company that engages
9 in, the manufacturing, distribution, sale, import, export, or
10 lawful use of firearms, firearm parts, firearm accessories, or
11 ammunition.

12 2. "*Company*" means any business or business entity, bank,
13 national banking association, nonbank financial institution,
14 financial services company, investment company, bank and trust
15 company, trust company, savings and loan association, building
16 and loan association, mutual savings bank, credit union, or
17 savings bank, including a wholly owned subsidiary, majority-
18 owned subsidiary, parent company, or affiliate of such business
19 or business entity, that exists for the purpose of making a
20 profit.

21 3. "*Nonpecuniary social investment*" means, except as
22 otherwise provided in this chapter and chapters 12F, 12H,
23 and 12J, investment or commitment of public funds to further
24 environmental, social, governance, political, or ideological
25 interests and for the purpose of obtaining an effect other than
26 a maximized return to the public fund without a reasonable
27 business purpose.

28 4. "*Public entity*" means the state, political subdivisions
29 of the state, public school corporations, and all public
30 officers, boards, commissions, departments, agencies, and
31 authorities empowered by law to enter into public contracts for
32 the expenditure of public funds, including the state board of
33 regents and institutions under the control of the state board
34 of regents. "*Public entity*" includes a public fund.

35 5. "*Public fund*" means the treasurer of state, the state

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1 board of regents, the public safety peace officers' retirement
2 system created in chapter 97A, the Iowa public employees'
3 retirement system created in chapter 97B, the statewide fire
4 and police retirement system created in chapter 411, or the
5 judicial retirement system created in chapter 602.

6 6. "*Reasonable business purpose*" means includes any purpose
7 directly related to any of the following:

8 a. Promoting the financial success or stability of a
9 company.

10 b. Mitigating risk to a company.

11 c. Complying with legal or regulatory requirements.

12 d. Limiting liability of a company.

13 7. "*Scrutinized company*" means any company that engages in
14 nonpecuniary social investment on behalf of a public entity or
15 a boycott of certain companies on behalf of a public entity.

16 8. "*Scrutinized company list*" means the list of scrutinized
17 companies prepared, maintained, and published by a public fund
18 pursuant to section 12K.3.

19 Sec. 4. NEW SECTION. 12K.3 Identification of scrutinized
20 companies — notice.

21 1. a. By March 1, 2024, a public fund shall make its best
22 efforts to identify or have identified any scrutinized company
23 that the public fund has entered into a contract with to
24 provide investment or management of securities services for the
25 public fund. The public fund shall create and make available
26 to the public a scrutinized company list for that public fund.
27 The public fund shall review on an annual basis and update, if
28 necessary, the scrutinized company list.

29 b. In making its best efforts to identify or have identified
30 a scrutinized company, the public fund shall consider and may
31 rely upon any of the following information:

32 (1) A company's certification that it is not engaged
33 in nonpecuniary social investment or a boycott of certain
34 companies.

35 (2) Publicly available information made by the company,

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1 including information that may be provided by nonprofit
2 organizations, research firms, and international organizations,
3 or publicly available statements by a member of a company's
4 governing body, an executive director of a company, or any
5 other officer or employee of the company with the authority to
6 issue policy statements on behalf of the company.

7 (3) Information published by the state or federal
8 government.

9 c. The Iowa public employees' retirement system, acting
10 on behalf of the system and other public funds subject to
11 this section, may develop and issue a request for proposals
12 for third-party services to complete the identification of
13 any scrutinized company and the compilation of a scrutinized
14 company list. The Iowa public employees' retirement system
15 shall consult with all other public funds on the development of
16 the request for proposals. However, selection of a successful
17 proposal and the final scope of services to be provided shall
18 be determined only by those public funds that have agreed to
19 utilize the third-party services. If more than one public fund
20 decides to utilize the third-party services, the participating
21 public funds shall equally share the costs of such services.

22 2. a. For each company on the scrutinized company list, the
23 public fund shall send or have sent a written notice informing
24 the company of its status as a scrutinized company and that
25 it may become subject to contract termination with the public
26 fund.

27 b. If, following notice as provided by this section, a
28 company ceases activity that designates it as a scrutinized
29 company and submits a written statement to the public fund that
30 it has ceased engaging in nonpecuniary social investment or a
31 boycott of certain companies, the company shall be removed from
32 the scrutinized company list.

33 Sec. 5. NEW SECTION. 12K.4 Public funds — contract and
34 investment requirements.

35 1. A public fund shall not enter into a contract with a

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1 company to provide investment or management of securities
2 services to the public fund so long as such company remains on
3 the public fund's scrutinized company list as provided in this
4 chapter or if the company would engage in nonpecuniary social
5 investment or a boycott of certain companies on behalf of the
6 public fund.

7 2. *a.* In accordance with sound investment criteria and
8 consistent with fiduciary obligations, a public fund shall
9 terminate a contract to provide investment or management
10 of securities services with a company on the public fund's
11 scrutinized company list, so long as the company remains on
12 that list, within eighteen months following the first written
13 notice sent to the scrutinized company as required by section
14 12K.3.

15 *b.* This subsection shall not be construed to require the
16 premature or otherwise imprudent termination of a contract, but
17 any termination of a contract shall be completed as provided
18 by this subsection.

19 Sec. 6. NEW SECTION. **12K.5 Reports.**

20 1. *Scrutinized companies list.* Each public fund shall,
21 within thirty days after the scrutinized company list is
22 created or updated as required by section 12K.3, make the list
23 available to the public.

24 2. *Annual report.* On October 1, 2024, and each October
25 1 thereafter, each public fund shall make available to the
26 public, and file with the general assembly, an annual report
27 covering the prior fiscal year that includes the following:

28 *a.* The scrutinized company list as of the end of the fiscal
29 year.

30 *b.* A summary of all written notices sent as required by
31 section 12K.3 during the fiscal year.

32 *c.* All contracts terminated as provided in section 12K.4
33 during the fiscal year.

34 Sec. 7. NEW SECTION. **12K.6 Public entities — contract**
35 **requirements.**

1 A public entity shall not enter into a contract of one
2 thousand dollars or more with a scrutinized company included on
3 a scrutinized company list created by a public fund pursuant to
4 section 12K.3 to provide investment or management securities
5 services in which any public funds are invested.

6 Sec. 8. NEW SECTION. 12K.7 Public funds — legal
7 obligations.

8 1. With respect to actions taken in compliance with this
9 chapter, including all good-faith determinations regarding
10 companies as required by this chapter, the public fund shall
11 be immune from any liability and exempt from any conflicting
12 statutory or common law obligations, including any such
13 obligations in respect to choice of asset managers, investment
14 funds, or investments for the public fund's securities
15 portfolios.

16 2. This chapter shall not limit the ability of a public fund
17 to terminate the contract of an investment manager or other
18 vendor at any time and for any reason in the exercise of the
19 public fund's fiduciary duties.

20 Sec. 9. Section 35A.13, subsection 4, paragraph a, Code
21 2023, is amended to read as follows:

22 a. Notwithstanding subsection 5, moneys in the fund, except
23 so much of the fund as may be necessary to be kept on hand
24 for the making of disbursements under this section, shall
25 be invested by the treasurer of state, in consultation with
26 the commission and the public retirement systems committee
27 established by section 97D.4, in any investments authorized for
28 the Iowa public employees' retirement system in section 97B.7A,
29 including common stock, and subject to the requirements of
30 chapters 12F, 12H, and 12J, and 12K, and the earnings therefrom
31 shall be credited to the fund. The treasurer of state may
32 execute contracts and agreements with investment advisors,
33 consultants, and investment management and benefit consultant
34 firms in the administration of investments of moneys in the
35 fund.

1 Sec. 10. Section 97A.7, subsection 1, Code 2023, is amended
2 to read as follows:

3 1. The board of trustees shall be the trustees of the
4 retirement fund created by this chapter as provided in section
5 97A.8 and shall have full power to invest and reinvest funds
6 subject to the terms, conditions, limitations, and restrictions
7 imposed by subsection 2 and chapters 12F, 12H, and 12J, and
8 12K and subject to like terms, conditions, limitations, and
9 restrictions said trustees shall have full power to hold,
10 purchase, sell, assign, transfer, or dispose of any of the
11 securities and investments of the retirement fund which have
12 been invested, as well as of the proceeds of said investments
13 and any moneys belonging to the retirement fund. The board
14 of trustees may authorize the treasurer of state to exercise
15 any of the duties of this section. When so authorized the
16 treasurer of state shall report any transactions to the board
17 of trustees at its next monthly meeting.

18 Sec. 11. Section 97B.4, subsection 5, Code 2023, is amended
19 to read as follows:

20 5. *Investments.* The system, through the chief investment
21 officer, shall invest, subject to chapters 12F, 12H, and 12J,
22 and 12K and in accordance with the investment policy and
23 goal statement established by the board, the portion of the
24 retirement fund which, in the judgment of the system, is not
25 needed for current payment of benefits under this chapter
26 subject to the requirements of section 97B.7A.

27 Sec. 12. Section 262.14, unnumbered paragraph 1, Code 2023,
28 is amended to read as follows:

29 The board may invest funds belonging to the institutions,
30 subject to chapters 12F, 12H, and 12J, and 12K and the
31 following regulations:

32 Sec. 13. Section 411.7, subsection 1, Code 2023, is amended
33 to read as follows:

34 1. The board of trustees is the trustee of the fire
35 and police retirement fund created in section 411.8 and

1 shall annually establish an investment policy to govern the
2 investment and reinvestment of the moneys in the fund, subject
3 to the terms, conditions, limitations, and restrictions
4 imposed by [subsection 2](#) and [chapters 12F, 12H, and 12J](#), and
5 [12K](#). Subject to like terms, conditions, limitations, and
6 restrictions the system has full power to hold, purchase, sell,
7 assign, transfer, or dispose of any of the securities and
8 investments in which the fund has been invested, as well as of
9 the proceeds of the investments and any moneys belonging to the
10 fund.

11 Sec. 14. Section 602.9111, subsection 1, Code 2023, is
12 amended to read as follows:

13 1. So much of the judicial retirement fund as may not be
14 necessary to be kept on hand for the making of disbursements
15 under [this article](#) shall be invested by the treasurer of
16 state in any investments authorized for the Iowa public
17 employees' retirement system in [section 97B.7A](#) and subject to
18 the requirements of [chapters 12F, 12H, and 12J](#), and [12K](#), and
19 the earnings therefrom shall be credited to the fund. The
20 treasurer of state may execute contracts and agreements with
21 investment advisors, consultants, and investment management and
22 benefit consultant firms in the administration of the judicial
23 retirement fund.>

24 2. Title page, line 1, by striking <by public funds>

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